IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 166 of 2007

Date of decision 7 .5.2007

The Commissioner of Income Tax 1 Chandigarh .. petitioner

Versus

M/s Punjab Small Industries and Export Corporation Ltd. .. Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr.SK Garg Narwana, Advocate for the appellant.

M.M.Kumar, J.

In this appeal filed under section 260A of the Income Tax Act,1961 (for brevity 'the Act') the revenue has challenged the order dated 28.8.2006 passed by the Income Tax Appellate Tribunal, Chandigarh Bench A, Chandigarh in ITA No.349/Chandi/2005 in respect of the assessment year 1999-2000.It is claimed that the following substantial question of law would arise for determination of this Court.

> " Whether in the facts and circumstances of the case, ITAT was right in holding that the assessee can validly file a revised return u/s 139(5) after completion of the assessment u/s 143(1) of the Income Tax Act, 1961 ?"

The assessee has filed its return of income tax for the assessment year 1999-2000 on 31.12.1999 declaring its income at Rs.6,11,43,227/-. Subsequently on 28.3.2001, the assessee filed revised

return u/s 139(5) of the Act revising its income to Rs. 4,75,10,464/-. The Assessing Officer treated the revised return as barred by time by adopting the reasoning that the original return which was filed on 31.12.1999 was processed on 15.5.2000 under Section 143(1) of the Act. It was further claimed that the assessment was complete after the processing was complete and, therefore, the assessee could not have filed the revised return after the processing was complete. The Commissioner of Income Tax (Appeals) set aside the order of the Assessing Officer by holding that processing of return envisaged by Section 143(1) of the Act could not be construed as an assessment. It was held that the assessment was not complete till the filing of revised return and therefore the assessee was within its right to have filed such a return within the purview of Section 139(5) of the Act.

Aggrieved by the order passed by the CIT (Appeals), the revenue approached the Tribunal which upheld the view taken by the CIT (Appeals) by observing that the provisions of Section 139(5) of the Act permits the assessee to furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment whichever is earlier.

After hearing the learned counsel, we are of the view that there is no reason furnished for taking a view different than the one taken by the Tribunal because the area of processing of the return and completion of assessment are distinct and the same have been dealt with under different provisions. The revised return filed by the assessee since was within the period of limitation of one year as envisaged by Section 139(5) of the Act. Thus, we find that no substantial question of law would arise for our determination. The appeal is wholly without merit and the same is

accordingly dismissed.

(M.M.Kumar)
Judge

(Rajesh Bindal)
Judge

7.5.2007
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